

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)
v.)
PEDRO ANTHONY ROMERO CRUZ, et al.) No. 1:14-CR-306
Defendants.) The Honorable Gerald Bruce Lee
) Trial Date: March 21, 2016
)
)

GOVERNMENT'S PROPOSED JURY INSTRUCTIONS REGARDING REDACTED
TRANSCRIPTS AND WITNESS TESTIMONY THROUGH USE OF PSEUDONYMS

The United States, by and through undersigned counsel, respectfully submits the attached proposed jury instructions regarding redacted transcripts the government will offer into evidence, and anticipated cooperating defendants' testimony in which the witnesses may use pseudonyms to refer to two defendants. On March 8, 2016, this Honorable Court excluded evidence that defendants Romero Cruz and Lemus Cerna participated in the murder of Nelson Omar Quintanilla Trujillo, as charged in Court Four of the Third Superseding Indictment. Dkt. No. 736. On March 14, 2016, the government moved for the admission of transcripts with redactions to omit references to the participation of Romero Cruz, Lemus Cerna, and defendant Duran Cerritos in Quintanilla Trujillo's murder. Dkt. No. 750. The government also proposed that the government and the Court instruct cooperating defendants to refer to defendants Duran Cerritos and Lemus Cerna by pseudonyms "Homeboy One" and "Homeboy Two" when these cooperating defendants testify regarding the participation of Duran Cerritos and Lemus Cerna in Quintanilla Trujillo's murder.¹ On March 17, 2016, the Court granted the government's motion,

¹ Defendant Duran Cerritos was a juvenile at the time of the Quintanilla Trujillo murder. Duran Cerritos was charged in Count Four with this crime, but he has moved to dismiss the charge,

and requested that the government propose related jury instructions. In accordance with the Court's order, the government proposes the attached instructions.

Respectfully Submitted,

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/s/

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citing *Miller v. Alabama*, 132 S. Ct. 2455 (2012). Dkt. No. 358. The Court has taken Duran Cerritos's motion under advisement, pending the Fourth Circuit's resolution of *United States v. Under Seal*, 15-4265. Dkt. No. 482. Should the Court ultimately dismiss this count against Duran Cerritos, the government presumes that the Court's reasoning in its March 8, 2016 Order, Dkt. No. 736, would apply as well to this defendant. For this reason, the government proposed the redaction of references to Duran Cerritos's participation in the Quintanilla Trujillo murder in the transcripts. The government also proposed instructing cooperating defendants not to identify Duran Cerritos by name when describing his participation in this crime. If the Court were to deny Duran Cerritos's motion, the government would retract any proposed redactions and instructions relating to Duran Cerritos.

GOVERNMENT'S PROPOSED JURY INSTRUCTION

Redacted transcript instruction—To offer upon admission of first redacted transcript

The transcript I am admitting into evidence, and other transcripts that I may admit into evidence, include redactions. I instruct you that you may consider as evidence only the unredacted portions of these transcripts. You are to draw no inferences whatsoever from the inclusion of redactions in these transcripts, and you may not speculate as to the nature or substance of the content redacted from the transcripts.

GOVERNMENT'S PROPOSED JURY INSTRUCTION

Pseudonyms—Initial instruction

You are about to hear testimony from a witness regarding the alleged murder of Nelson Omar Quintanilla Trujillo. For the purposes of this testimony, I have instructed the witness to refer to a particular individual using the pseudonym “Homeboy One,” although the witness knows this individual by another name. I have further instructed the witness to refer to a second particular individual by the pseudonym “Homeboy Two,” although the witness also knows this individual by another name. You are to draw no inferences whatsoever from the witness’s use of pseudonyms to refer to these two individuals, and you may not speculate as to these individuals’ true identities.

GOVERNMENT'S PROPOSED JURY INSTRUCTION

Pseudonyms—Subsequent instruction

I have previously instructed [a witness] [witnesses], when testifying regarding the alleged murder of Nelson Omar Quintanilla Trujillo, to refer to two particular individuals as “Homeboy One” and “Homeboy Two,” although the [witness] [witnesses] [know/s] these individuals by other names. You are about to hear testimony from another witness regarding the alleged murder of Nelson Omar Quintanilla Trujillo. As before, I have instructed the witness, for the purposes of his testimony regarding this alleged crime, to refer to the same particular individual by the pseudonym “Homeboy One,” although the witness knows this individual by another name. I have further instructed the witness to refer the same second particular individual by the pseudonym “Homeboy Two,” although the witness also knows this individual by another name. You are to draw no inferences whatsoever from the witness’s use of pseudonyms to refer to these two individuals, and you may not speculate as to their true identities.

CERTIFICATE OF SERVICE

I hereby certify that on the 20th of March, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which automatically generated a Notice of Electronic Filing to counsel of record.

/s/
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